

AMENDED IN ASSEMBLY JANUARY 4, 2016

AMENDED IN ASSEMBLY APRIL 15, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1233

Introduced by Assembly Members ~~Member Levine and Eggman~~
(Principal coauthor: ~~Assembly Member Jones~~)

(Coauthors: ~~Assembly Members Achadjian, Travis Allen, Baker,
Bigelow, Bloom, Bonta, Brough, Chávez, Cooper, Dahle, Daly,
Dodd, Beth Gaines, Gallagher, Cristina Garcia, Gordon, Harper,
Low, Maienschein, McCarty, Nazarian, Olsen, Patterson,
Steinorth, Mark Stone, Waldron, Williams, and Wood~~)
(Coauthors: ~~Senators Galgiani, Hancock, Hill, Vidak, Wiecekowski, and
Wolk~~)

February 27, 2015

An act to amend Section ~~23363.1~~ 1720 of the ~~Business and
Professions~~ Labor Code, relating to ~~alcoholic beverages~~ public works.

LEGISLATIVE COUNSEL'S DIGEST

AB 1233, as amended, Levine. ~~Distilled spirits manufacturers:
licenses: sale on premises tastings.~~ Public works: public subsidies.

Existing law requires that, except as specified, not less than the general prevailing rate of per diem wages, determined by the Director of Industrial Relations, be paid to workers employed on public works projects. Existing law defines "public works" to include, among other things, construction, alteration, demolition, installation, or repair work done under contract and paid for, in whole or in part, out of public funds, but exempts from that definition, among other projects, an otherwise private development project if the state or political subdivision

provides, directly or indirectly, a public subsidy to the private development project that is de minimis in the context of the project.

This bill would provide that a public subsidy is de minimis if it is both less than \$250,000 and less than 2% of the total project cost. The bill would specify that those provisions do not apply to a project that was advertised for bid, or a contract that was awarded, before July 1, 2017.

~~The Alcoholic Beverage Control Act authorizes a licensed distilled spirits manufacturer to conduct tastings of distilled spirits produced or bottled by, or produced or bottled for, the licensee, on the licensed premises, under specified conditions.~~

~~This bill additionally would permit the licensee to sell up to 3 bottles of product authorized to be produced or bottled by or for the licensee to each person at a tasting on the licensee's premises, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1720 of the Labor Code is amended to
2 read:

3 1720. (a) As used in this chapter, "public works" means:

4 (1) Construction, alteration, demolition, installation, or repair
5 work done under contract and paid for in whole or in part out of
6 public funds, except work done directly by any public utility
7 company pursuant to order of the Public Utilities Commission or
8 other public authority. For purposes of this paragraph,
9 "construction" includes work performed during the design and
10 preconstruction phases of construction, including, but not limited
11 to, inspection and land surveying work, and work performed during
12 the postconstruction phases of construction, including, but not
13 limited to, all cleanup work at the jobsite. For purposes of this
14 paragraph, "installation" includes, but is not limited to, the
15 assembly and disassembly of freestanding and affixed modular
16 office systems.

17 (2) Work done for irrigation, utility, reclamation, and
18 improvement districts, and other districts of this type. "Public
19 work" does not include the operation of the irrigation or drainage
20 system of any irrigation or reclamation district, except as used in
21 Section 1778 relating to retaining wages.

1 (3) Street, sewer, or other improvement work done under the
2 direction and supervision or by the authority of any officer or
3 public body of the state, or of any political subdivision or district
4 thereof, whether the political subdivision or district operates under
5 a freeholder's charter or not.

6 (4) The laying of carpet done under a building lease-maintenance
7 contract and paid for out of public funds.

8 (5) The laying of carpet in a public building done under contract
9 and paid for in whole or in part out of public funds.

10 (6) Public transportation demonstration projects authorized
11 pursuant to Section 143 of the Streets and Highways Code.

12 (7) (A) Infrastructure project grants from the California
13 Advanced Services Fund pursuant to Section 281 of the Public
14 Utilities Code.

15 (B) For purposes of this paragraph, the Public Utilities
16 Commission is not the awarding body or the body awarding the
17 contract, as defined in Section 1722.

18 (b) For purposes of this section, "paid for in whole or in part
19 out of public funds" means all of the following:

20 (1) The payment of money or the equivalent of money by the
21 state or political subdivision directly to or on behalf of the public
22 works contractor, subcontractor, or developer.

23 (2) Performance of construction work by the state or political
24 subdivision in execution of the project.

25 (3) Transfer by the state or political subdivision of an asset of
26 value for less than fair market price.

27 (4) Fees, costs, rents, insurance or bond premiums, loans, interest
28 rates, or other obligations that would normally be required in the
29 execution of the contract, that are paid, reduced, charged at less
30 than fair market value, waived, or forgiven by the state or political
31 subdivision.

32 (5) Money loaned by the state or political subdivision that is to
33 be repaid on a contingent basis.

34 (6) Credits that are applied by the state or political subdivision
35 against repayment obligations to the state or political subdivision.

36 (c) Notwithstanding subdivision (b):

37 (1) Private residential projects built on private property are not
38 subject to the requirements of this chapter unless the projects are
39 built pursuant to an agreement with a state agency, redevelopment
40 agency, or local public housing authority.

(2) If the state or a political subdivision requires a private developer to perform construction, alteration, demolition, installation, or repair work on a public work of improvement as a condition of regulatory approval of an otherwise private development project, and the state or political subdivision contributes no more money, or the equivalent of money, to the overall project than is required to perform this public improvement work, and the state or political subdivision maintains no proprietary interest in the overall project, then only the public improvement work shall thereby become subject to this chapter.

(3) (A) If the state or a political subdivision reimburses a private developer for costs that would normally be borne by the public, or provides directly or indirectly a public subsidy to a private development project that is de minimis in the context of the project, an otherwise private development project shall not thereby become subject to the requirements of this chapter.

(B) *For purposes of subparagraph (A), a public subsidy is de minimis if it is both less than two hundred fifty thousand dollars (\$250,000) and less than 2 percent of the total project cost. This subparagraph shall not apply to a project that was advertised for bid, or a contract that was awarded, before July 1, 2017.*

(4) The construction or rehabilitation of affordable housing units for low- or moderate-income persons pursuant to paragraph (5) or (7) of subdivision (e) of Section 33334.2 of the Health and Safety Code that are paid for solely with moneys from the Low and Moderate Income Housing Fund established pursuant to Section 33334.3 of the Health and Safety Code or that are paid for by a combination of private funds and funds available pursuant to Section 33334.2 or 33334.3 of the Health and Safety Code do not constitute a project that is paid for in whole or in part out of public funds.

(5) Unless otherwise required by a public funding program, the construction or rehabilitation of privately owned residential projects is not subject to the requirements of this chapter if one or more of the following conditions are met:

(A) The project is a self-help housing project in which no fewer than 500 hours of construction work associated with the homes are to be performed by the home buyers.

(B) The project consists of rehabilitation or expansion work associated with a facility operated on a not-for-profit basis as

1 temporary or transitional housing for homeless persons with a total
2 project cost of less than twenty-five thousand dollars (\$25,000).

3 (C) Assistance is provided to a household as either mortgage
4 assistance, downpayment assistance, or for the rehabilitation of a
5 single-family home.

6 (D) The project consists of new construction, expansion, or
7 rehabilitation work associated with a facility developed by a
8 nonprofit organization to be operated on a not-for-profit basis to
9 provide emergency or transitional shelter and ancillary services
10 and assistance to homeless adults and children. The nonprofit
11 organization operating the project shall provide, at no profit, not
12 less than 50 percent of the total project cost from nonpublic
13 sources, excluding real property that is transferred or leased. Total
14 project cost includes the value of donated labor, materials,
15 ~~architectural~~, and *architectural* and engineering services.

16 (E) The public participation in the project that would otherwise
17 meet the criteria of subdivision (b) is public funding in the form
18 of below-market interest rate loans for a project in which
19 occupancy of at least 40 percent of the units is restricted for at
20 least 20 years, by deed or regulatory agreement, to individuals or
21 families earning no more than 80 percent of the area median
22 income.

23 (d) Notwithstanding any provision of this section to the contrary,
24 the following projects shall not, solely by reason of this section,
25 be subject to the requirements of this chapter:

26 (1) Qualified residential rental projects, as defined by Section
27 142(d) of the Internal Revenue Code, financed in whole or in part
28 through the issuance of bonds that receive allocation of a portion
29 of the state ceiling pursuant to Chapter 11.8 (commencing with
30 Section 8869.80) of Division 1 of Title 2 of the Government Code
31 on or before December 31, 2003.

32 (2) Single-family residential projects financed in whole or in
33 part through the issuance of qualified mortgage revenue bonds or
34 qualified veterans' mortgage bonds, as defined by Section 143 of
35 the Internal Revenue Code, or with mortgage credit certificates
36 under a Qualified Mortgage Credit Certificate Program, as defined
37 by Section 25 of the Internal Revenue Code, that receive allocation
38 of a portion of the state ceiling pursuant to Chapter 11.8
39 (commencing with Section 8869.80) of Division 1 of Title 2 of
40 the Government Code on or before December 31, 2003.

(3) Low-income housing projects that are allocated federal or state low-income housing tax credits pursuant to Section 42 of the Internal Revenue Code, Chapter 3.6 (commencing with Section 50199.4) of Part 1 of Division 31 of the Health and Safety Code, or Section 12206, 17058, or 23610.5 of the Revenue and Taxation Code, on or before December 31, 2003.

(e) Notwithstanding paragraph (1) of subdivision (a), construction, alteration, demolition, installation, or repair work on the electric transmission system located in California constitutes a public works project for the purposes of this chapter.

(f) If a statute, other than this section, or a regulation, other than a regulation adopted pursuant to this section, or an ordinance or a contract applies this chapter to a project, the exclusions set forth in subdivision (d) do not apply to that project.

(g) For purposes of this section, references to the Internal Revenue Code mean the Internal Revenue Code of 1986, as amended, and include the corresponding predecessor sections of the Internal Revenue Code of 1954, as amended.

(h) The amendments made to this section by either Chapter 938 of the Statutes of 2001 or the act adding this subdivision shall not be construed to preempt local ordinances requiring the payment of prevailing wages on housing projects.

SECTION 1. ~~Section 23363.1 of the Business and Professions Code is amended to read:~~

~~23363.1. (a) A distilled spirits manufacturer's license authorizes the licensee to conduct tastings of distilled spirits produced or bottled by, or produced or bottled for, the licensee, on or off the licensee's premises.~~

~~(b) (1) Distilled spirits tastings may be conducted by the licensee off the licensee's premises only for an event sponsored by a nonprofit organization. A distilled spirits manufacturer shall not sell or solicit sales of distilled spirits at such event. The sponsoring organization shall first obtain a permit from the department.~~

~~(2) For purposes of this subdivision, "nonprofit organization" does not include any community college or other institution of higher learning, as defined in the Education Code, nor does it include any officially recognized club, fraternity, or sorority, whether or not that entity is located on or off the institution's campus.~~

1 ~~(e) Tastings on the licensee's premises shall be subject to the~~
2 ~~following conditions:~~

3 ~~(1) Tastings of distilled spirits shall not exceed one-fourth of~~
4 ~~one ounce and shall be limited to no more than six tastes per~~
5 ~~individual per day.~~

6 ~~(2) Tastings shall only include the products that are authorized~~
7 ~~to be produced or bottled by or for the licensee.~~

8 ~~(3) A person under 21 years of age shall not serve tastes of~~
9 ~~distilled spirits.~~

10 ~~(4) Tastings of distilled spirits shall not be given in the form of~~
11 ~~a cocktail or a mixed drink.~~

12 ~~(d) Notwithstanding Section 25600, the licensee may provide~~
13 ~~distilled spirits without charge for any tastings conducted pursuant~~
14 ~~to this section. The licensee may charge for tastings conducted by~~
15 ~~the licensee on its licensed premises.~~

16 ~~(e) The licensee may sell up to three bottles of product~~
17 ~~authorized to be produced or bottled by or for the licensee to each~~
18 ~~person at a tasting conducted on the licensee's premises pursuant~~
19 ~~to subdivision (c).~~

20 ~~(f) This section shall not relieve the holder of a distilled spirits~~
21 ~~manufacturer's license of any civil or criminal liability arising out~~
22 ~~of a violation of Section 25602.~~